

# Order

Michigan Supreme Court  
Lansing, Michigan

October 13, 2009

Marilyn Kelly,  
Chief Justice

ADM File No. 2008-25

Michael F. Cavanagh  
Elizabeth A. Weaver  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Diane M. Hathaway,  
Justices

Proposed Amendment of  
Rule 6.433 of the  
Michigan Court Rules

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On order of the Court, this is to advise that the Court is considering an amendment of Rule 6.433 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at [www.courts.mi.gov/supremecourt](http://www.courts.mi.gov/supremecourt).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Rule 6.433 Documents for Postconviction Proceedings; Indigent Defendant

(A)-(B)[Unchanged.]

(C) Other Postconviction Proceedings. An indigent defendant who is not eligible to file an appeal of right or an application for leave to appeal may obtain records and documents as provided in this subrule.

- (1) The defendant must make a written request to the sentencing court for specific court documents or transcripts indicating that the materials are required to pursue postconviction remedies in a state or federal court and are not otherwise available to the defendant.
- (2) If the documents or transcripts have been filed with the court and not provided previously to the defendant, the clerk must provide the defendant with copies of such materials without cost to the defendant. If the

- (3) requested materials have been provided previously to the defendant, on defendant's showing of good cause to the court, the clerk must provide the defendant with another copy.

(3)-(4)[Unchanged.]

Staff Comment: This proposal would insert a “good cause” provision into MCR 6.433 to require a defendant in postconviction proceedings to show good cause to obtain a second set of court documents. This amendment would mirror the good-cause provision in MCR 6.433(B)(2) for appeals by leave.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by February 1, 2010, at P.O. Box 30052, Lansing, MI 48909, or [MSC\\_clerk@courts.mi.gov](mailto:MSC_clerk@courts.mi.gov). When filing a comment, please refer to ADM File No. 2008-25. Your comments and the comments of others will be posted at [www.courts.mi.gov/supremecourt/resources/administrative/index.htm](http://www.courts.mi.gov/supremecourt/resources/administrative/index.htm).



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 13, 2009

*Corbin R. Davis*  
Clerk